

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

WP(C).No. 22813 of 2007(N)

CMA.128/2006 of DISTRICT COURT, THALASSERY
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PETITIONER:

**T.P.BALAN,S/O.KRISHNAN,
TRADER, KUNNUMMAL HOUSE, PALAYI,
P.O.NIRMALAGIRI.**

**BY ADV. SRI.T.A.RAMADASAN
SRI.CIBI THOMAS**

RESPONDENT:

**THE KUTHUPARAMBA MUNICIPALITY REP. BY
ITS SECRETARY.**

**BY ADV. SRI.P.V.SURENDRANATH
SRI.P.V.DIPU**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 01/08/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C) NO.22813/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE AFFIDAVIT FILED IN SUPPORT OF IA. 1051/06.

EXT.P2:- COPY OF THE COUNTER FILED BY THE RESPONDENT IN IA. NO.1051/06.

EXT.P3:- COPY OF THE PLAINT IN OS. 162/06.

EXT.P4:- COPY OF THE WRITTEN STATEMENT FILED BY THE RESPONDENT.

EXT.P5:- COPY OF THE ORDER IN IA. 1051/06.

EXT.P6:- COPY OF THE JUDGMENT IN CMA.128/06. DT. 6.7.07.

EXT.P7:- COPY OF THE COMMISSION REPORT.

EXT.P7(a):- COPY OF THE PLAN.

RESPONDENTS EXHIBITS

EXT.R1(a):- COPY OF THE PHOTOGRAPH SHOWING THE INAGURATION AND FUNCTIONING OF THE NEWLY CONSTRUCTED BUNKS.

/TRUE COPY/

P.S. TO JUDGE

tss

M.N.KRISHNAN, J

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W.P.(C) No.22813 OF 2007

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Dated this the 1st day of August 2007

JUDGMENT

This writ petition is filed against the order of the District Court, Thalassery in C.M.A.No.128/2006. The suit is one for injunction to restrain the defendant/Municipality from proceeding with or completing the construction of the shop rooms in plaint B schedule item or starting or permitting any business therein. The trial court granted an order of injunction whereby it prevented from starting of any business in the shop rooms. In appeal, the learned District Judge found that the said order is not sustainable and held that there is no prima facie case for the grant of the equitable relief of injunction.

2. I had gone through the orders of the courts below. In this jurisdiction under Article 227 of the Constitution of India, this court cannot reappreciate the facts and the scope is very limited. Therefore I think the best method is to direct the trial court to dispose of the matter, as expeditiously as possible, untrammelled by the observations contained in its

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-:2:-

order or in the order of the appellate court, within a time frame of 3 months.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-